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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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GERARDO OSORIO ORTEGA,

Petitioner,

v.

STATE OF NEVADA, et al.,

Respondents.

Case No. 2:18-cv-01630-RFB-GWF

ORDER

This *pro se* petition for writ of habeas corpus comes before the Court on petitioner's application for leave to proceed *in forma pauperis* (ECF No.1) and for preliminary review pursuant to Rule 4 of the Rules Governing Section 2254 Proceedings in the United States District Courts. Because petitioner has not filed any petition or asserted any claims for relief, this action will be dismissed without prejudice as improperly commenced.

Apart from his pauper application, petitioner has filed only one document with the Court: a copy of an amended criminal complaint in Case No. 18F12436X in Las Vegas Justice Court. In that document, petitioner is charged with crimes that allegedly occurred on July 5, 2018. The Court takes judicial notice of the Eighth Judicial District Court's docket to note that petitioner was bound over to district court on the same day his filings were received by this Court: August 29,

1 2018. It therefore would appear that petitioner is, in some way, challenging ongoing criminal
2 proceedings that have only just recently commenced. Dismissal of this action without prejudice
3 will not therefore cause petitioner any prejudice.

4 In accordance with the foregoing,

5 **IT IS THEREFORE ORDERED** that this action is DISMISSED WITHOUT
6 PREJUDICE as improperly commenced. Petitioner shall file any petition, and either pay the filing
7 or fee or submit a complete pauper application, in a new action only, and shall not file any more
8 documents in this case.

9 **IT IS FURTHER ORDERED** that a certificate of appealability is denied. Jurists of
10 reason would not find debatable whether the Court was correct in its dismissal of the action without
11 prejudice on procedural grounds, for the reasons discussed herein.

12 **IT IS FURTHER ORDERED**, pursuant to Rule 4 of the Rules Governing Section 2254
13 Cases, that the Clerk shall make informal electronic service upon respondents by adding Nevada
14 Attorney General Adam P. Laxalt as counsel for respondents and directing a notice of electronic
15 filing of this order to his office. No response is required from respondents other than to respond
16 to any orders of a reviewing court.

17 The Clerk of Court shall SEND petitioner a copy of his papers in this action, along with
18 two copies each of the forms and instructions for an inmate pauper application and § 2241 habeas
19 petition.

20 The Clerk of Court shall enter final judgment accordingly, dismissing this action without
21 prejudice. The Clerk of Court shall also close this case.

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23 DATED: September 5, 2018.

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26 RICHARD F. BOULWARE, II
27 UNITED STATES DISTRICT JUDGE
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